

### REMARKS

Claims 41-57 remain pending in the present application. Reconsideration and withdrawal of the rejection are respectfully requested.

#### Interview Summary

Applicants wish to express their appreciation to Examiner Choi for the courtesies extended to applicants' representative during the personal interview of August 5, 2004. During the interview, applicants pointed out that Patel et al (US 6,248,363), column 46, teaches the use of spraying to form spherical pellets. The Examiner tentatively agreed that Patel et al taught the use of spraying to achieve spherical pellets.

#### Rejection over Patel et al.

Claims 41-57 have been rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Patel et al., US 6,248,363, (Patel). This rejection is respectfully traversed.

Claim 41 recites a process for making pharmaceutically acceptable spherical pellets that comprises, *inter alia*, combining a solvent with a pharmaceutically active agent and/or salt thereof and at least one pellet forming carrier to form a wet mixture wherein the solvent is not combined by spraying. The wet mixture is then stirred, chopped or both to form spherical wet pellets.

In contrast, Patel teaches in column 46, lines 31-35 that "[f]or granulation, a binder liquid is sprayed from via one or two binary nozzles located axially to the rotational movement of the powder bed. This operation results in rounding of the granules to approximately spherical pellets." Thus, when combining the solvent with the other ingredients, the solvent is sprayed in order to round the granules and form spherical pellets. This is a conventional prior art approach and does not teach or suggest combining the solvent without spraying as per the presently

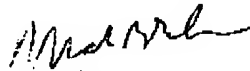
claimed invention. Note that the presently claimed invention does not merely recite making granules, but rather recites making spherical pellets; the very form described in Patel as being achieved by the necessary use of spraying. The formation of spherical pellets without spraying is thus not taught or suggested by Patel.<sup>1</sup> In the absence of a suggestion to form the claimed invention, the presently claimed subject matter is unobvious within the meaning of § 103. Therefore, reconsideration and withdrawal of this rejection are respectfully rejected.

#### Conclusion

In view of the above remarks, all claims define novel, patentable subject matter. Reconsideration of the rejection and allowance of the application are respectfully requested.

Should the Examiner have any questions regarding this application, he is encouraged to contact applicants' representative, Mark R. Buscher (Reg. No. 35,006) at telephone No. 703 753 5256.

Respectfully submitted,



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<sup>1</sup> The other "pelletization" process mentioned in Patel column 46 involves passing a solution or dispersion through a "certain opening" to achieve a desired shape. See lines 5-11. But such a process does not involve stirring, chopping, or both, as per instant claim 41 in order to form spherical wet pellets.